

Application No.: 09/689,222  
Amdt. dated Sept. 26, 2005  
Reply to Final Office Action of July 26, 2005

REPLY UNDER 37 C.F.R. § 1.116  
-EXPEDITED PROCEDURE-  
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#### REMARKS

The Applicant respectfully requests reconsideration of this application as amended. In this amendment, claims 4, 24-25, 74-76, 80 and 84, have been amended without prejudice. No claims have been canceled. Claims 5, 72-73, 77-79, 81-83 and 85-87 remain unchanged by this amendment. No claims have been added. Hence, claims 4, 5, 24, 25 and 72-87 are presented for examination upon entry of this amendment. Applicant submits that no new subject matter has been added by these amendments.

#### CLAIM REJECTIONS – 35 U.S.C. § 112

In the Final Office action, the Examiner rejected claims 24-25 and 74-75 under 35 U.S.C. § 112 for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner has indicated that it is unclear whether the machine-readable medium includes a storage medium and/or communication/transmission media and that if the medium includes transmission media, then it is unstatutory. The undersigned disagrees with the Examiner's assertion that if the medium includes transmission media that it is unstatutory. However, for the sake of expediting the prosecution of the application, claims 24-25 and 74-75 have been amended without prejudice to clarify their applicability to storage media.

#### CLAIM REJECTIONS – 35 U.S.C. § 102

In the Final Office action, the Examiner rejected claims 4-5, 24-25, and 72-87 under 35 U.S.C. § 102(e) for allegedly being unpatentable over US Patent No. 6,209,033 of Datta et al. (hereafter "Datta"). The undersigned respectfully disagrees with the Examiner's characterization of Datta and points out several distinctions between the claimed subject matter and the teachings of Datta.

As presently understood by the undersigned, Datta generally relates to network evaluation and planning based upon traffic across the links of a network. (abstract) Specifically,

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Datta relates to measuring a link's traffic volume, comparing this measurement with the traffic and capability of other links of the network to create measures of network capacity and balance. Then, simulated changes to the *network configuration* may be made by substituting simulated traffic volume amounts and capabilities for selected link traffic measurements and capabilities, and the resulting measures of network capacity and balance may then be compared to determine whether the simulated changes represent a preferred *network configuration*. (abstract; col. 1, ll. 16-19; col. 2, ll. 60-67) The network capacity evaluation and planning includes forecasting future needs and technology such as technical opportunities, creating coordinated plans on short, medium, and long term basis, and modifying plans based on results of actual network implementations. (col. 6, ll. 22-32) *Examples of changes to network configuration include, relocating/adding/deleting network devices, relocating/adding/deleting network users, relocating/adding/deleting subnets and/or switches, modifying policies that govern communications, and modifying routing or switching algorithms.* (col. 7, ll. 1-9)

The undersigned believes Datta does not teach or reasonably suggest at least the following: (1) reservation session aggregation points; (2) media aggregation managers; (3) a first path of the plurality of physical paths; (4) projected link utilization schedule illustrating predicted bandwidth usage for routers associated with a physical path; (5) displaying paths prioritized based upon one or more predetermined factors; and (6) the predetermined factors include one or more of: a number of nodes in the first path or the second path; total available bandwidth for the first path or the second path; available communications bandwidth on the first path or the second path; and physical length of travel between nodes that make up the first path and the second path.

In addition, the undersigned agrees with the Examiner's comment on page 3 of the Office action that Datta discloses: (1) network capacity and evaluation planning; and (2) simulated changes to the network configuration are then made. Again, Datta generally relates to selecting *network configurations by relocating/adding/deleting network devices, relocating/adding/deleting network users, relocating/adding/deleting subnets and/or switches,*

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modifying policies that govern communications, and modifying routing or switching algorithms. (col. 7, ll. 1-9). By contrast, the present application is directed to changes in *path selection* within a *given network configuration* and the effects path selection will have on link utilization.

With this brief overview of Datta, the undersigned now submits the following arguments to point out significant differences between the invention as claimed by the Applicant and Datta.

Regarding claim 4, claim 4 expressly recites, in part, "displaying graphical representations of a first media aggregation manager and a second media aggregation manager..." Datta *does not teach or reasonably suggest media aggregation managers*. On page 12, line 5 of the present application, a "media aggregation manager" is explicitly defined as "a network device, such as an edge device at the ingress/egress of a user community, or a group of one or more software processes running on a network device *that provides application/protocol specific multiplexing/de-multiplexing of media traffic onto a pre-allocated reservation protocol session.*" (emphasis added)

In addition, claim 4 expressly recites "displaying a first projected link utilization in response to a first request to analyze the effect of conveying media packets...over a first path of the plurality of physical paths..." The undersigned can find no teaching or reasonable suggestion of this expressly recited claim element in Datta. Again, as previously described, Datta generally relates to identifying a "preferred network configuration" by evaluating alternative network configurations by considering device selection, placement, and policies. Datta is not concerned with projected link utilization based on the selection of a physical path by analyzing the effect of conveying media packets over the selected path. Neither the portions of Datta cited nor the remainder of Datta teach or reasonably suggest analyzing a selected physical path through which one or more media packets may be routed. Therefore, Datta also fails to teach or reasonably suggest "predicting bandwidth usage for one or more routers associated with the" selected physical path.

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For at least these reasons, claim 4 is distinguishable over Datta. Claims 5 and 72-73 depend from claim 4 and thus inherit all of the limitations of claim 4. As such, claims 5 and 72-73 are distinguishable over Datta for at least the same reasons as given for claim 4.

Claims 24, 76, 80, and 84, and their respective dependent claims, are distinguishable over Datta since claims 24, 76, 70, and 84 have similar limitations as claim 4. Thus, for at least reasons similar to those presented with reference to claim 4, claims 24-25 and 74-87 are distinguishable over Datta.

With regard to claims 5, 25, 77, 81, and 85 the Examiner has asserted that Datta further discloses overlaying a selected path of the plurality of physical paths onto existing bandwidth allocations to determine a projected link utilization associated with the selected path. Again, at least as presently understood by the undersigned and described above, Datta relates to comparing alternate network configurations such as placement of network devices and the like. As such, Datta does not teach path selection. Therefore, for at least this reason, claims 5, 25, 77, 81, and 85 are distinguishable over Datta.

With regard to claims 72, 74, 78, 82, and 86, the Examiner asserts that Datta further discloses displaying the first path and the second path prioritized based upon one or more predetermined factors at column 6, lines 21-26. The section of Datta relied upon by the Examiner states "[a]n important challenge for network management and control is capacity evaluation and planning (CEP), which generally includes monitoring current network characteristics, understanding environmental constraints and considerations, and forecasting future needs and technology." The undersigned can find no teaching or reasonable suggestion of *prioritizing paths* based upon one or more predetermined factors in this section reference by the Examiner. In addition, the undersigned has found no teaching or reasonable suggestion of this claim element anywhere in Datta. Hence, for at least this reason, claims 72, 74, 78, 82, and 86 are distinguishable over Datta.

With regard to claims 73, 75, 79, 83, and 87 the undersigned can find no teaching or reasonable suggestion in Datta of the expressly recited predetermined factors upon which the

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path prioritization is based. Furthermore, the Examiner has provided no indication of where these elements are taught. As such, a prima facie case of obviousness has not been made with respect to claims 73, 75, 79, 83, and 87.

The Examiner rejected claims 4-5, 72-73, and 76-87 under 35 U.S.C. § 102(b) for allegedly being anticipated by US Patent No. 5,826,242 of Montulli (hereafter "Montulli"). The undersigned respectfully disagrees with the Examiner's characterization that Montulli anticipates these claims and points out several distinctions between the claimed subject matter and the teachings of Montulli.

As presently understood by the undersigned, Montulli generally relates to transferring state information between a server computer system and a client computer system. (abstract; col. 1, ll. 10-14) For example, Montulli purportedly relates to communicating documents containing information such as text and one or more images. Another example relates to on-line shopping systems which purportedly allows a customer to browse information delivered by a merchant server using a browser running on a client. (col. 2, ll. 58-67)

With regard to claims 4-5, 72-73 and 76-87 the Examiner has provided no indication of where in Montulli the claim elements are taught or reasonably suggested. In addition, the undersigned can find no such teaching or reasonable suggestion of the claim elements, or that Montulli even generally relates to the present invention as claimed. The Examiner effectively asserts that since there is nothing in Montulli that prevents a user from interactively exploring changes in path selection, it can be broadly interpreted to read on a method of allowing a user to interactively explore changes in path selection. Again, the undersigned does not agree with the Examiner that Montulli even relates to path selection. However, in order to expedite prosecution of the present application, claims 4, 72, 76, 80, and 84 have been amended, without prejudice, to remove the language "allowing a user."

#### CLAIM AMENDMENTS

Applicant has amended some of the claims to more clearly claim subject matter of the invention. Applicant submits that these amendments are for clarification purposes only, and

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do not limit or narrow the claims in any way. Indeed, in some instances, the amendments broaden the claims. In any event, Applicant submits that the claims still are allowable over the prior art, and thus Applicant respectfully requests the Examiner to promptly issue a Notice of Allowance.

CONCLUSION

Applicant respectfully submits that the amendment and remark have overcome the rejections, and that the pending claims are in condition for allowance. Accordingly, Applicant requests that the rejections be withdrawn and that a Notice of Allowance be issued for claims 4, 5, 24, 25 and 72-87.

REQUEST FOR A TELEPHONE INTERVIEW

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (303) 607-3633.

CHARGE OUR DEPOSIT ACCOUNT

Enclosed is a PTO Credit Card Payment Form 2038 in the amount of \$250.00 to cover the necessary Notice of Appeal Fee under 37 C.F.R. 41.20(b)(1) for a small entity. Please charge our Deposit Account No. 06-0029 for any additional charge associated with this filing.

Respectfully submitted,

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